MUNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

3:18-cv-00610-FDW (3:02-cr-00193-GCM-4)

MARCUS JERMAINE SCOTT,)	
Petitioner,)	
vs.)	ORDER
UNITED STATES OF AMERICA,)	
Respondent.)	
)	

THIS MATTER is before the Court upon Marcus Jermaine Scott's Motion for Summary Judgment. (Doc. No. 7.)

On November 6, 2018, Scott filed a pro se Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Doc. No. 1), and the Court ordered the United States to file an answer, motion, or other response to the Petition (Doc. No. 4). On March 15, 2019, the United States filed a Motion to Dismiss the Petition. (Doc. No. 6). Having not received a copy of the Motion to Dismiss and believing the United States had not responded in any manner to his Petition, Scott filed a Motion on April 22, 2019, seeking summary judgment on the ground that the United States had failed to comply with the Court's Order. (Doc. No. 7.)¹ Scott's Motion shall be denied.

On May 6, 2019, the United States filed a Notice of Corrected Service notifying the

¹ According to the Certificate of Service attached to the Motion to Dismiss, the United States mailed a copy of the Motion to Scott on March 15, 2019, the same date it filed the Motion in this Court. (Cert. of Service, Doc. No. 6 at 4.) The Motion was mailed to the return address Scott provided on the envelope in which he mailed his habeas Petition. (Not. of Corrected Service ¶ 3, Doc. No. 8; Doc. No. 6 at 4; § 2241 Env., No. 1-1.) On May 6, 2019, Scott's copy of the Motion to Dismiss was returned to the United States' Attorney's Office with a notation on the envelope of "NO MAIL RECEPTACLE. UNABLE TO FORWARD." (Notice of Corrected Service ¶ 2.)

Court that it had, that day, mailed Scott a new copy of the Motion to Dismiss at his correct address. (Doc. No. 8.) In accordance with the principles articulated in <u>Roseboro v. Garrison</u>, 528 F.2d 309 (4th Cir. 1975), the Court now notifies Petitioner that he has a right to respond to the Government's Motion. Failure to respond may result in dismissal of Petitioner's Motion to Vacate without further notice.

IT IS, THEREFORE, ORDERED that Scott's Motion for Summary Judgment (Doc. No. 7) is **DENIED**.

IT IS FURTHER ORDERED that Scott shall have thirty (30) days from entrance of this Order to respond to the Government's Motion to Dismiss.

Signed: May 14, 2019

Frank D. Whitney

Chief United States District Judge